

Federal Communications Commission

Before the
Federal Communications Commission
Washington, D.C. 20554

FCC MAIL SECTION
JAN 23 9 34 AM '97
DA 96-2210
DISPATCHED

In the Matter of

Amendment of Section 73.202(b),)	MM Docket No. 96-10
Table of Allotments,)	RM-8738
FM Broadcast Stations.)	RM-8799
(Farmersville, Blue Ridge,)	RM-8800
Bridgeport, Eastland, Flower Mound,)	RM-8801
Greenville, Henderson, Jacksboro,)	
Mineola, Mt. Enterprise, Sherman and)	
Tatum, Texas; and Ada, Ardmore)	
and Comanche, Oklahoma))	

REPORT AND ORDER
(Proceeding Terminated)

Adopted: December 13, 1996

Released: January 17, 1997

By the Chief, Allocations Branch:

1. The Commission has before it the Notice of Proposed Rule Making in this proceeding. 11 FCC Rcd 1790 (1996). Greenville Broadcasting and Thomas S. Desmond ("Desmond") filed counterproposals.¹ Hunt Broadcasting, Inc. and Cowboy Broadcasting, L.L.C. ("Hunt/Cowboy") filed a Joint Counterproposal.² Community Broadcast Network, Farmersville Radio Group, Galen O. Gilbert, and Comanche Radio, L.L.C. filed Comments. Heftel Broadcasting Corporation filed Supplemental Comments. Hunt/Cowboy filed a Response to Public Notice, Reply Comments and Joint Reply Comments to Counterproposals. Hunt/Cowboy, Desmond and Farmersville Radio Group filed a Joint Request for Settlement and a Supplement to Joint Request for Settlement. For the reasons discussed below, we are allotting Channel 221A to Farmersville, Texas, and Channel 260A to Mt. Enterprise, Texas. We are substituting Channel 244C for Channel 244A

¹On February 8, 1996, Desmond filed a petition for Rule Making proposing a Channel 260A allotment for Leonard, Texas. On April 3, 1996, he filed an Amendment to that Petition for Rule Making proposing Blue Ridge, Texas, as the community of license. Inasmuch as the Amendment was filed by the comment date in this proceeding, this Petition, as amended, will be processed as a timely filed counterproposal.

²The Joint Counterproposal included the following joint petitioners: 1) Pontotoc County Broadcasting, Inc., licensee of Station KADA-FM, Ada, Oklahoma; 2) Dean Broadcasting, Inc., licensee of Station KGRI-FM, Henderson, Texas; 3) Pennok Communications, Inc., licensee of Station KRXXZ, Ardmore, Oklahoma; 4) Harold Cochran, licensee of Station KDDQ, Comanche, Oklahoma; and 5) KMOO, Inc., licensee of Station KMOO, Mineola, Oklahoma.

at Sherman, Texas, reallocating Channel 244C to Flower Mound, Texas, and modifying the license of Station KIKM to specify operation on Channel 244C at Flower Mound. We are also substituting Channel 262A for Channel 260C3 at Henderson, Texas, reallocating Channel 262A to Tatum, Texas, and modifying the license of Station KGRI to specify operation on Channel 262A at Tatum. To accommodate these actions, we are taking related actions in ten communities.

Background

2. At the request of Galen O. Gilbert ("Gilbert"), the Notice of Proposed Rule Making in this proceeding proposed the allotment of Channel 260C3 to Farmersville, Texas, as a first local service. 11 FCC Rcd 1790 (1990). In response to the Notice, we received three counterproposals. Desmond proposed the allotment of Channel 260A to Blue Ridge, Texas, as a first local service. Greenville Broadcasting proposed the allotment of Channel 260C3 to Greenville, Texas. Hunt/Cowboy filed a Joint Counterproposal. In that Joint Counterproposal, Hunt Broadcasting, Inc., licensee of Station KIKM, Channel 244A, Sherman, Texas, and permittee of Station KAIH, Channel 269A, Jacksboro, Texas, proposed the substitution of Channel 244C for Channel 244A at Sherman, reallocating Channel 244C to Flower Mound, Texas, and modification of its Station KIKM license to specify operation on Channel 244C at Flower Mound. This reallocation and upgrade requires seven related channel changes which were included in the Joint Counterproposal.

3. On May 24, 1996, Hunt/Cowboy, Gilbert, Greenville Broadcasting, Desmond and Farmersville Radio Group filed a Joint Request for Settlement. Under this Settlement, Desmond will withdraw his proposal for a Channel 260A allotment at Blue Ridge, Texas, Greenville Broadcasting will withdraw its proposal for a Channel 260C3 allotment at Greenville, Texas, and Gilbert will withdraw his proposal for a Channel 260C3 allotment at Farmersville, Texas. In addition to these withdrawals, Farmersville Radio Group, who had filed a timely expression of interest in the proposed Channel 260C3 allotment at Farmersville, will modify this proposal to specify a Channel 221A allotment. These withdrawals and modification make possible the Station KIKM upgrade and reallocation to Flower Mound. We will discuss the public interest benefits of this proposal and the related channel changes below.

Sherman/Flower Mound, Texas

4. As requested by Hunt Broadcasting, Inc., licensee of Station KIKM, Channel 244A, Sherman, Texas, we are substituting Channel 244C for Channel 244A at Sherman, reallocating Channel 244C to Flower Mound, Texas, and modifying the Station KIKM license to specify operation on Channel 244C at Flower Mound.³ This will result in a preferential arrangement of allotments as required by Modification of FM and TV Authorizations to Specify a New Community of License, 4 FCC Rcd 4870 (1989), recon, 5 FCC Rcd 7094 (1990). In reaching

³The reference coordinates for Channel 244C at Flower Mound, Texas, are 33-23-12 and 97-33-57.

this determination, we compared the existing versus the proposed arrangement of allotments using the FM priorities set forth in Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1988).⁴ In this instance, reallocating Channel 244C to Flower Mound would be preferred under Priority (3) as a first local service. Sherman will continue to be served by three local radio stations. See Marion and Orrville, Alabama, 6 FCC Rcd 3482 (1991); Bolivar and Nixa, Missouri, 6 FCC Rcd 3648 (1991); Fruitland and Weiser, Idaho, 7 FCC Rcd 7538 (1992); Mora, Bosque Farms and Socorro, New Mexico, 8 FCC Rcd 791 (1993); Ravenswood and Elizabeth, West Virginia, 10 FCC Rcd 3181 (1995). We also note that a Class C allotment at Flower Mound will serve an additional 1,966,281 persons. The resulting loss area contains 77,212 persons who will continue to receive service from at least five stations.

5. In taking this action reallocating an upgraded Station KIKM to Flower Mound, we realize that the 70 dBu signal will encompass all of the Denton, Texas Urbanized Area and 75% of the Lewisville, Texas Urbanized Area. We are concerned with the potential migration of stations from underserved rural areas to well-served urban areas. Community of License, 5 FCC Rcd at 7096. To this end, we will not blindly apply a first local service preference of the FM allotment priorities when a station seeks to reallocate its channel from a rural area to a suburban community in or near an Urbanized Area. In making such a determination regarding a proposal to award a first local service preference, we apply existing precedents. See e.g. Huntington Broadcasting Co. v. FCC, 192 F.2d 33(D.C. Cir. 1951); RKO General (KERC), 5 FCC Rcd 3222 (1990); Faye and Richard Tuck, 3 FCC Rcd 5374 (1988). In essence, we consider the extent the station will provide service to the entire Urbanized Area, the relative populations of the suburban and central cities, and the independence of the suburban community. Thereafter, in Headland, Alabama and Chattahoochee, Florida, 10 FCC Rcd 10352 (1995), we expanded this policy to include proposals proximate to Urbanized Areas. Specifically, we will undertake the same evaluation to determine whether a proposal should be considered as a first local service if the station at its proposed community of license will provide a city-grade signal (70 dBu) to over 50% of the Urbanized Area.

6. In this situation, Flower Mound, with a 1990 population of 15,527 persons, is entitled to a preference as a first local service. Even though Station KIKM will provide a 70 dBu signal to the entire Denton Urbanized Area, with a 1990 population of 66,445 persons, and 75% of the Denton Urbanized Area, with a 1990 population of 79,433 persons, the record in this proceeding supports a conclusion that Station KIKM will provide a first local service to Flower Mound. Compared to the population of the Denton and Lewisville Urbanized Areas, the population of Flower Mound is substantial. Flower Mound is not dependant upon the any Urbanized Area for its existence. Flower Mound is an incorporated community with a mayor and city council. Municipal functions are provided by the Flower Mound Fire Department, the Flower Mound Police Department and the Tower of Flower Mound Utilities. Flower Mound has its own school district with four elementary schools, two middle schools and one high school. In addition to

⁴The FM allotment priorities are : (1) first fulltime aural service; (2) second fulltime aural service; (3) first local service; and (4) other public interest matters. Co-equal weight is given to Priorities (2) and (3).

its own local businesses, it has its own local library, twelve churches, golf course and city parks. Flower Mound has the economic, cultural and governmental bases to warrant a first local radio service.

7. The Station KIKM upgrade and reallocation to Flower Mound requires seven related channel changes. In Columbus, Nebraska, et. al., 59 RR 2d 1185 (1986), the Commission addressed the delay and administrative costs in implementing rule making proposals involving multiple channel substitutions. To this end, the Commission stated that in the absence of "significant public interest benefits" or an agreement among the affected stations, we will not entertain petitions for rule making involving more than two substitutions of channels occupied by existing FM or television stations. In this situation, six of the affected stations were parties to the Joint Counterproposal and have agreed to the proposed channel changes. As such, the Columbus policy does not preclude consideration of this proposal. In addition, we also believe that these channel substitutions will provide significant public interest benefits.

Bridgeport, Texas

8. To accommodate the Channel 244C upgrade at Flower Mound, we are modifying the license of Station KBOC, Channel 244A, Bridgeport, Texas, to specify operation on Channel 252A.⁵ Originally, Community Broadcast Network, licensee of Station KBOC did not agree to the proposed channel substitution on modification of license. Subsequently, Community Broadcast Network withdrew its opposition and consented to this license modification. Hunt Broadcasting has agreed to reimburse Community Broadcast Network for the reasonable and prudent costs of changing its channel.

Jacksboro, Texas

9. In order to accommodate a Channel 252A allotment at Bridgeport, we are substituting Channel 299A for Channel 252A at Jacksboro, Texas, and are modifying the construction permit of Station KAIH, Channel 252A, Jacksboro, Texas, to specify operation on Channel 299A.⁶ Hunt Broadcasting, also the permittee of Station KAIH, has agreed to the new channel, a new transmitter site, and the modification of its construction permit.⁷

⁵The reference coordinates for the Channel 252A allotment at Bridgeport, Texas, are 33-13-28 and 97-47-51. This is the existing Station KBOC transmitter site.

⁶The reference coordinates for the Channel 299A allotment at Jacksboro, Texas, are 33-14-14 and 98-09-43.

⁷On July 26, 1996, Hefel Broadcasting Corporation filed a Petition for Rule Making proposing two interrelated reallocation proposals. Included in that Petition for Rule Making was a proposal for a Channel 300C1 allotment at Lewisville, Texas, which conflicts with the Channel 299A allotment at Jacksboro. To address this conflict, Hefel Broadcasting proposes an alternative Channel 237A allotment at Jacksboro. The Hefel Broadcasting Petition for Rule Making was not filed by the April 5, 1996, comment date in this proceeding. The Channel 237A allotment at Jacksboro also requires a channel substitution at Mineral Wells, Texas. In view of this untimeliness and the fact that the community of Mineral Wells has not been included in this proceeding, we will not accommodate this aspect of

Eastland, Texas

10. Cowboy Broadcasting, L.L.C. is the licensee of Station KVMX, Channel 244A, Eastland, Texas. In order to accommodate a Channel 244C allotment at Flower Mound, we are substituting Channel 236A for Channel 244A at Eastland and are modifying the license of Station KVMX to specify operation on Channel 236A.⁸ Cowboy Broadcasting has agreed to this license modification and the new transmitter site.

Mineola, Texas

11. KMOO, Inc. is the licensee of Station KMOO, Channel 244A, Mineola, Texas. To accommodate the Channel 244C allotment at Flower Mound, we are substituting Channel 260A for Channel 244A at Mineola and are modifying the Station KMOO license to specify operation on Channel 260A.⁹ Station KMOO is currently a three-kilowatt Class A FM facility. A Channel 260A allotment will permit Station KMOO to operate at six kilowatts and provide a 60 dBu service to an additional 10,277 persons in an area of 768 square kilometers. KMOO, Inc. has agreed to this channel substitution and license modification.

Henderson/Tatum and Mt. Enterprise, Texas

12. A Channel 260A allotment at Mineola, Texas, conflicts with the existing Channel 260C3 allotment at Henderson, Texas. To remove this conflict, Dean Broadcasting, Inc., licensee of Station KGRI, Channel 260C3, Henderson, Texas, proposes the substitution of Channel 262A for Channel 260C3 at Henderson, reallocation of Channel 262A to Tatum, Texas, and modification of the Station KGRI license to specify operation on Channel 262A at Tatum. The removal of Channel 260C3 at Henderson makes possible the companion Dean Broadcasting proposal for a Channel 260A allotment at Mt. Enterprise, Texas.

13. In this situation, we are substituting Channel 262A for Channel 260C3 at Henderson, reallocating Channel 262A to Tatum, and modifying the Station KGRI license to specify operation on Channel 262A at Tatum, Texas.¹⁰ This will provide a first local service to Tatum, an incorporated community of 1,289 persons. Henderson will continue to receive local service from AM Station KWRD. The area and population losing service from the removal of Channel 260C3 at Henderson will continue to receive primary service from at least five stations. In a related vein, we are also allotting Channel 260A to Mt. Enterprise, Texas, as a first local service to an

the Heftel Broadcasting Petition for Rule Making in this proceeding.

⁸The reference coordinates for the Channel 236A allotment at Eastland, Texas, are 32-28-34 and 98-50-20.

⁹The reference coordinates for the Channel 260A allotment at Mineola, Texas, are 32-45-04 and 95-33-18.

¹⁰The reference coordinates for the Channel 262A allotment at Tatum, Texas, are 32-13-35 and 94-33-11.

incorporated community of 501 persons.¹¹ Dean Broadcasting has stated that it will apply for and construct the facilities at both Tatum and Mt. Enterprise.

Ardmore, Comanche and Ada, Oklahoma

14. The proposed Channel 244C allotment at Flower Mound conflicts with the existing allotments at Ardmore, Comanche and Ada, Oklahoma. To eliminate these conflicts, Hunt/Cowboy proposes channel substitutions and license modifications at each of these communities.

15. In MM Docket No. 88-587, we substituted Channel 245C2 for Channel 244A at Comanche, Oklahoma, and modified the license of Station KDDQ, Comanche, to specify operation on Channel 245C2. 4 FCC Rcd 6851 (1989). Thereafter, on September 16, 1996, we dismissed the application to implement that upgrade. In this situation, both the Channel; 244A and Channel 245C2 allotments at Comanche conflict with the proposed Channel 244C allotment at Flower Mound. In the Joint Counterproposal, Hunt/Cowboy states that it has entered into an agreement with Harold Cochran, licensee of Station KDDQ, looking toward a Channel 246A substitution at Comanche.¹² To this end, we are substituting Channel 246A for Channel 245C2 at Comanche and are modifying the Station KDDQ license to specify operation on Channel 264A.¹³ In this regard, we note that Station KDDQ currently operates on Channel 244A as a three-kilowatt Class A FM facility. Operation on Channel 246A will permit Station KDDQ to operate at six kilowatts. This will result in primary service to an additional 831 square kilometers containing 7,520 persons.

16. The Channel 244C allotment at Flower Mound conflicts with the Channel 243A allotment at Ardmore, Oklahoma. To eliminate this conflict, Hunt/Cowboy has entered into an agreement with Pennok Communications, Inc., licensee of Station KRXZ, Channel 243A, Ardmore, Oklahoma, and Oklahoma Sports Properties, Inc., proposed assignee of Station KRXZ, looking toward a transmitter site relocation and Channel 253A substitution at Ardmore. We will substitute Channel 253A for Channel 243A at Ardmore, and modify the Station KRXZ license to specify operation on Channel 253A.¹⁴ This channel substitution will permit Station KRXZ to increase its effective radiating power (ERP) from three to six kilowatts resulting in additional primary service to an area of 665 square kilometers with a population of 4,788 persons.

17. Finally, the Channel 244C allotment at Flower Mound conflicts with the Channel

¹¹The reference coordinates for the Channel 260A allotment at Mt. Enterprise, Texas, are 31-55-06 and 94-40-54.

¹²Comanche Radio, L.L.C., proposed assignee of Station KDDQ has also agreed to the Channel 246A substitution at Comanche at the proposed site.

¹³The reference coordinates for the Channel 246A allotment at Comanche, Oklahoma, are 34-27-24 and 97-55-07.

¹⁴The reference coordinates for the Channel 253A allotment at Ardmore, Oklahoma, are 34-14-15 and 97-06-45.

244A allotment at Ada, Oklahoma. To eliminate this conflict, Hunt/Cowboy has entered into an agreement with Pontotoc County Broadcasting, Inc., licensee of Station KADA, Channel 244A. Ada, Oklahoma, and Chichasaw Nation, proposed assignee of Station KADA, looking toward a Channel 257A substitution at Ada.¹⁵ We will substitute Channel 257A for Channel 244A at Ada, Oklahoma, and modify the Station KADA license to specify operation on Channel 257A.¹⁶ This substitution will permit Station KADA to increase its effective radiated power to six kilowatts and provide additional primary service to an area of 609 square kilometers with a population of 5,342 persons.

Blue Ridge, Greenville and Farmersville, Texas

18. In the Joint Request for Settlement, Desmond has agreed to withdraw his proposal for a Channel 260A allotment at Blue Ridge, Texas, Greenville Broadcasting has agreed to withdraw its proposal for a Channel 260C3 allotment at Greenville, Texas, and Gilbert has agreed to withdraw his proposal for a Channel 260C3 allotment at Farmersville, Texas. In addition, Farmersville Radio Group has agreed to modify its expression of interest in a Channel 260C3 allotment at Farmersville to specify Channel 221A. As required by Section 1.420(j) of the Rules, all of these parties have filed copies of the written agreements looking toward the respective withdrawals of their proposals/expression of interest. In each situation, reimbursement was limited to their reasonable and prudent expenses. See Amendment of Section 1.420 and 73.3584 of the Commission's Rules Concerning Abuses of the Commission's Processes, 5 FCC Rcd 3911 (1990), recon. denied 6 FCC Rcd 3380 (1991). Pursuant to this Joint Request for Settlement, we are also allotting Channel 221A to Farmersville, Texas, as a first local service.¹⁷

19. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective March 3, 1997, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED with respect to the communities listed below, as follows:

<u>Community</u>	<u>Channel No.</u>
Ada, Oklahoma	227C1, 257A
Ardmore, Oklahoma	239C1, 253A
Comanche, Oklahoma	246A

¹⁵On April 4, 1996, American Family Radio filed an application for a new noncommercial educational FM station at Ada, Oklahoma (File No. BPED-960404MB). This application conflicts with the proposed Channel 257A allotment at Ada and was filed by the comment date in this proceeding. Subsequently, American Family Radio amended its application to remove this conflict.

¹⁶The reference coordinates for the Channel 257A allotment at Ada, Oklahoma, are 34-42-31 and 96-44-24.

¹⁷The reference coordinates for the Channel 221A allotment at Farmersville, Texas, are 33-16-21 and 96-21-14.

Bridgeport, Texas	252A
Eastland, Texas	236A, 249A
Farmersville, Texas	221A
Flower Mound, Texas	244C
Jacksboro, Texas	299A
Mineola, Texas	260A
Mt. Enterprise, Texas	260A
Sherman, Texas	281A
Tatum, Texas	262A

20. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of Hunt Broadcasting, Inc. for Station KIKM, Sherman, Texas, IS MODIFIED to specify operation on Channel 244C at Flower Mound in lieu of Channel 244A at Sherman, subject to the following conditions:

- (a) Within 90 days of the effective date of this Order, the licensee shall submit to the Commission a minor change application for construction permit (FCC Form 301), specifying the new facility;
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620 of the Rules; and
- (c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

21. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of Harold Cochran for Station KDDQ, Comanche, Oklahoma, IS MODIFIED to specify operation on Channel 246A in lieu of Channel 245C2, subject to the following conditions:

- (a) Nothing contained herein shall be construed as authorizing any change in the authorization for Station KDDQ except for the channel as specified above. Any other change, except those specified under Section 73.1260 of the Rules, require prior authorization pursuant to an application for construction permit (FCC Form 301);
- (b) Program tests may be conducted in accordance with the provisions of Section 73.1620 of the Rules, PROVIDED the transmission facilities comply in all respects with the station's authorization except for the channel specified above, and a license application (FCC Form 302) is filed within 10 days of commencement of program tests.

22. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications

Act of 1934, as amended, the license of Pennok Communications, Inc. for Station KRXZ, Ardmore, Oklahoma, IS MODIFIED to specify operation on Channel 253A in lieu of Channel 243A, subject to the following conditions:

(a) Nothing contained herein shall be construed as authorizing any change in the authorization for Station KRXZ except for the channel as specified above. Any other change, except those specified under Section 73.1260 of the Rules, require prior authorization pursuant to an application for construction permit (FCC Form 301);

(b) Program tests may be conducted in accordance with the provisions of Section 73.1620 of the Rules, PROVIDED the transmission facilities comply in all respects with the station's authorization except for the channel specified above, and a license application (FCC Form 302) is filed within 10 days of commencement of program tests.

23. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of Pontotoc County Broadcasting, Inc. for Station KADA, Ada, Oklahoma, IS MODIFIED to specify operation on Channel 257A in lieu of Channel 244A, subject to the following conditions:

(a) Nothing contained herein shall be construed as authorizing any change in the authorization for Station KADA except for the channel as specified above. Any other change, except those specified under Section 73.1260 of the Rules, require prior authorization pursuant to an application for construction permit (FCC Form 301);

(b) Program tests may be conducted in accordance with the provisions of Section 73.1620 of the Rules, PROVIDED the transmission facilities comply in all respects with the station's authorization except for the channel specified above, and a license application (FCC Form 302) is filed within 10 days of commencement of program tests.

24. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of Community Broadcast Network for Station KBOC, Bridgeport, Texas, IS MODIFIED to specify operation on Channel 252A in lieu of Channel 244A, subject to the following conditions:

(a) Nothing contained herein shall be construed as authorizing any change in the authorization for Station KBOC except for the channel as specified above. Any other change, except those specified under Section 73.1260 of the Rules, require prior authorization pursuant to an application for construction permit (FCC Form 301);

(b) Program tests may be conducted in accordance with the provisions of Section 73.1620 of the Rules, PROVIDED the transmission facilities comply in all respects with the station's authorization except for the channel specified above, and a license application (FCC Form 302) is filed within 10 days of commencement of program tests.

25. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of Cowboy Broadcasting, L.L.C. for Station KVMX, Eastland, Texas, IS MODIFIED to specify operation on Channel 236A in lieu of Channel 244A, subject to the following conditions:

(a) Nothing contained herein shall be construed as authorizing any change in the authorization for Station KVMX except for the channel as specified above. Any other change, except those specified under Section 73.1260 of the Rules, require prior authorization pursuant to an application for construction permit (FCC Form 301);

(b) Program tests may be conducted in accordance with the provisions of Section 73.1620 of the Rules, PROVIDED the transmission facilities comply in all respects with the station's authorization except for the channel specified above, and a license application (FCC Form 302) is filed within 10 days of commencement of program tests.

26. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the construction permit of Hunt Broadcasting, Inc. for Station KAIH, Jacksboro, Texas, IS MODIFIED to specify operation on Channel 299A in lieu of Channel 252A, subject to the following conditions:

(a) Nothing contained herein shall be construed as authorizing any change in the authorization for Station KAIH except for the channel as specified above. Any other change, except for those specified under Section 73.1260 of the Rules, require prior authorization pursuant to an application for construction permit (FCC Form 301);

(b) Program tests may be conducted in accordance with the provisions of Section 73.1620 of the Rules, PROVIDED the transmission facilities comply in all respects with the station's authorization except for the channel specified above, and a license application (FCC Form 302) is filed within 10 days of commencement of program tests.

27. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of KMOO, Inc. for station KMOO, Mineola, Texas, IS MODIFIED to specify operation on Channel 260A in lieu of Channel 244A, subject to the following conditions:

(a) Nothing contained herein shall be construed as authorizing any change in the authorization of Station KMOO except for the channel as specified above. Any other change, except for those specified under Section 73.1260 of the Rules, require prior authorization pursuant to an application for construction permit (FCC Form 301);

(b) Program tests may be conducted in accordance with the provisions of Section 73.1620 of the Rules, PROVIDED the transmission facilities comply in all respects with the station's authorization except for the channel specified above, and a license application (FCC Form 302) is filed within 10 days of the commencement of program tests.

28. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license Dean Broadcasting, Inc. for Station KGRI, Channel 260C3, Henderson, Texas, IS MODIFIED to specify operation on Channel 262A at Tatum, Texas, in lieu of Channel 260C3 at Henderson, subject to the following conditions:

(a) Within 90 days of the effective date of this Order, the licensee shall submit to the Commission a minor change application for construction permit (FCC Form 301), specifying the new facility;

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620 of the Rules; and

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

29. IT IS FURTHER ORDERED, That the aforementioned counterproposals filed by Thomas S. Desmond for a Channel 260A allotment at Blue Ridge, Texas (RM-8800) and Greenville Broadcasting for a Channel 260C3 allotment at Greenville, Texas (RM-8801) ARE DISMISSED.

30. The window period for filing applications for the Channel 221A allotment at Farmersville, Texas, and the Channel 260A allotment at Mt. Enterprise, Texas, will open on March 3, 1997, and close on April 3, 1997.

31. Pursuant to Sections 1.1104(1)(k) and 1.1104(2)(k) of the Commission's Rules, any party seeking a change of community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Hunt Broadcasting, Inc., licensee of Station KIKM, and Dean Broadcasting, Inc., licensee of Station KGRI, are each required to submit a rule making fee in addition to the fee

required for the application to effect the upgrade and/or the change in community of license.

32. For further information concerning this proceeding, contact Robert Hayne, Mass Media Bureau (202) 418-2177.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
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Mass Media Bureau